

If the request for clearance is not granted, the employee making the request shall not commence or continue in the activity unless the Executive Director or his designee, upon written request of the employee, determines that such activity would be consistent with applicable laws, orders and regulations.

[61 FR 34133, July 1, 1996]

PART 4905—APPEARANCES IN CERTAIN PROCEEDINGS

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AUTHORITY: 29 U.S.C. 1302(b); E.O. 11222, 30 FR 6469; 5 CFR 735.104.

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§ 4905.1 Purpose and scope.

(a) *Purpose.* This part sets forth the rules and procedures to be followed when a PBGC employee or former employee is requested or served with compulsory process to appear as a witness or produce documents in a proceeding in which the PBGC is not a party, if such appearance arises out of, or is related to, his or her employment with the PBGC. It provides a centralized decisionmaking mechanism for responding to such requests and compulsory process.

(b) *Scope.* (1) This part applies when, in a judicial, administrative, legislative, or other proceeding, a PBGC employee or former employee is requested or served with compulsory process to provide testimony concerning information acquired in the course of performing official duties or because of official status and/or to produce material acquired in the course of performing official duties or contained in PBGC files.

(2) This part does not apply to:

- (i) Proceedings in which the PBGC is a party;
- (ii) Congressional requests or subpoenas for testimony or documents; or
- (iii) Appearances by PBGC employees in proceedings that do not arise out of,

or relate to, their employment with PBGC (*e.g.*, outside activities that are engaged in consistent with applicable standards of ethical conduct).

§ 4905.2 Definitions.

For purposes of this part:

Appearance means testimony or production of documents or other material, including an affidavit, deposition, interrogatory, declaration, or other required written submission.

Compulsory process means any subpoena, order, or other demand of a court or other authority (*e.g.*, an administrative agency or a state or local legislative body) for the appearance of a PBGC employee or former employee.

Employee means any officer or employee of the PBGC, including a special government employee.

Proceeding means any proceeding before any federal, state, or local court; federal, state, or local agency; state or local legislature; or other authority responsible for administering regulatory requirements or adjudicating disputes or controversies, including arbitration, mediation, and other similar proceedings.

Special government employee means an employee of the PBGC who is retained, designated, appointed or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis (18 U.S.C. 202).

§ 4905.3 General.

No PBGC employee or former employee may appear in any proceeding to which this part applies to testify and/or produce documents or other material unless authorized under this part.

§ 4905.4 Appearances by PBGC employees.

(a) Whenever a PBGC employee or former employee is requested or served with compulsory process to appear in a proceeding to which this part applies, he or she will promptly notify the General Counsel.

(b) The General Counsel or his or her designee will authorize an appearance